

**STAMP AND RETURN**

**US BANK/FCC MAR 17 2014**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

|   |   |                     |
|---|---|---------------------|
| In re Petition of                             | ) |                     |
|   | ) |                     |
| Pine Telephone T.V.                           | ) | CSR-_____           |
|   | ) |                     |
| For Modification of the Television Market for | ) | Facility ID#: 49760 |
| KBOI-TV, Boise, Idaho (CBS)                   | ) |                     |
|   | ) |                     |
| For Modification of the Television Market for | ) | Facility ID#: 59255 |
| KIVI-TV, Nampa, Idaho (ABC)                   | ) |                     |
|   | ) |                     |
| For Modification of the Television Market for | ) | Facility ID#: 59363 |
| KNIN-TV, Caldwell, Idaho (FOX)                | ) |                     |
|   | ) |                     |
| For Modification of the Television Market for | ) | Facility ID#: 34858 |
| KTVB, Boise, Idaho (NBC)                      | ) |                     |
|   | ) |                     |
| For Modification of the Television Market for | ) | Facility ID#: 28230 |
| KTRV-TV, Nampa, Idaho (ME-TV)                 | ) |                     |

To: Chief, Media Bureau

**PETITION FOR SPECIAL RELIEF**

Pine Telephone T.V.  
John D. Hemphill  
Patrick Lattin  
104 Center Street  
Halfway, OR 97834  
(541) 742-2201

Wilkinson Barker Knauer, LLP  
2300 N Street, NW  
Suite 700  
Washington, D.C. 20037  
(202) 783-4141

Brian W. Higgins  
Robert D. Primosch

Its Attorneys

March 14, 2014

## TABLE OF CONTENTS

|  |     |
|--|-----|
| SUMMARY .....  | iii |
| INTRODUCTION .....   | 1   |
| I. BACKGROUND .....  | 2   |
| II. LEGAL STANDARD.....  | 4   |
| III. ADDITION OF HALFWAY TO THE BOISE DMA WOULD SATISFY EACH<br>OF THE FOUR STATUTORY MARKET MODIFICATION CRITERIA ..... | 7   |
| A. THE STATIONS HAVE A LONG HISTORY OF VIEWERSHIP<br>IN HALFWAY .....  | 7   |
| B. THE STATIONS PROVIDE LOCAL SERVICE TO HALFWAY .....   | 8   |
| 1. Halfway is Extremely Close to the Stations’<br>Noise-Limited Contours.....  | 8   |
| 2. The Stations are Geographically Close to Halfway .....  | 9   |
| 3. The Stations Provide Extensive Local Coverage to Halfway .....  | 10  |
| 4. Halfway is Economically Integrated with Boise .....   | 11  |
| C. THERE IS NO COVERAGE OF LOCAL EVENTS BY OTHER TELEVISION<br>STATIONS .....  | 13  |
| D. THERE IS NO PUBLISHED DATA REGARDING CABLE<br>AND NONCABLE VIEWING PATTERNS IN HALFWAY .....                          | 14  |
| IV. CONCLUSION .....   | 14  |

## SUMMARY

Pine Telephone T.V. (“Pine”), the owner of a new cable television system being constructed in Halfway, Oregon, requests that the television markets of KBOI-TV (Boise, ID), KIVI-TV (Nampa, ID), KNIN-TV (Caldwell, ID) KTVB (Boise, ID) and KTRV-TV (Nampa, ID) (collectively, the “Stations”), each of which are located in the Boise, ID television market, be modified to include Halfway, which is located in the Portland, OR television market. As demonstrated herein, this request satisfies all of the statutory requirements for modifying the local television market associated with the Stations.

First, there is a long history of the Stations being viewed in Halfway. Specifically, residents of Halfway have viewed stations in the Boise market for more than fifty (50) years via television translator stations located in Idaho. Second, the Stations have provided local service to Halfway, which is located in close physical proximity to the Boise television market, including close proximity to each of the Stations’ noise-limited contours. The Stations also have provided local programming that is responsive to the interests and needs of Halfway, which is economically integrated with the Boise market. Third, there are no other commercial television stations eligible for carriage that can provide local coverage, since no other commercial stations serve (or have ever served) Halfway. Finally, even though ratings data is unavailable, given that the Stations are the only commercial television stations that have ever served Halfway, notice can be taken that the Stations have been viewed in Halfway. Accordingly, the Bureau should modify the Stations’ television market to include Halfway.

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To: Chief, Media Bureau

**PETITION FOR SPECIAL RELIEF**

Pine Telephone T.V. ("Pine"), by its attorneys and pursuant to Section 614(h) of the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act") and Sections 76.7(a)(1) and 76.59(a) of the Commission's rules,<sup>1</sup> hereby petitions the Media Bureau (the "Bureau") to modify the television market of each of the above-referenced commercial television stations (the "Stations"), *i.e.*, the Boise, ID Designated Market Area ("Boise DMA"),

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<sup>1</sup> Pub. L. No. 102-385, 106 Stat. 1460, codified at 47 U.S.C. § 534(h); 47 C.F.R. §§ 76.7(a)(1), 76.59(a).



to include the community of Halfway, Oregon ("Halfway"). Halfway, which is located on the outer periphery of the Portland Designated Market Area ("Portland DMA"), has received commercial broadcast television service from stations in the Boise DMA via television translators in Idaho for more than fifty (50) years. Beginning last year, however, all but one of these translator stations was decommissioned and its service discontinued, with the same fate likely awaiting the one remaining translator sometime soon.

This loss of television translator coverage will leave Halfway without any terrestrial commercial broadcast television coverage of any kind. Halfway has never received primary commercial television service from any station, and its only secondary service has come via translator from stations in the Boise DMA. As a result, the Boise stations are, and have been, the only local stations that Halfway has ever known. In order to restore and ensure continuation of this long-standing service, Pine respectfully requests that, as to each Station, the Commission modify the Boise DMA to include Halfway so that Pine may carry them as local stations on the cable television system it is constructing to serve Halfway.

## **I. BACKGROUND**

Halfway is located in a remote, rural section of Eastern Oregon, just 17 road miles from the Oregon-Idaho border and, therefore, the boundary between the Portland and Boise DMAs.<sup>2</sup> According to the 2010 U.S. Census, Halfway has a total population of 288 persons, which constitutes less than .02% of the total population residing in Baker County.<sup>3</sup> While Baker City (approximately 35 miles west of Halfway) receives some terrestrial, over-the-air service from

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<sup>2</sup> See Exhibit 1.

<sup>3</sup> See American Fact Finder, U.S. Census Bureau, available at [http://factfinder2.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml)

Portland via television translator stations, viewers in Halfway cannot receive those stations due to distance and terrain shielding.<sup>4</sup> The *Oregonian*, a Portland-based daily newspaper, has called Halfway “Oregon’s forgotten stepchild.” It “receives no commercial radio signals from anywhere in Oregon, [a]nd what meager TV reception the town gets originates in Idaho.”<sup>5</sup>

Hence, for more than fifty (50) years residents in Halfway received commercial television service from Boise via analog television translator stations located in Idaho.<sup>6</sup> On September 15, 2013, however, the licensee of those stations, Idaho Power Company, decommissioned their operation.<sup>7</sup> At present Halfway receives television translator service from only one commercial television station, KTVB, Boise, ID (NBC) via translator station K13QL, and this service is expected to end soon.<sup>8</sup> Further, while Halfway was at one time served by a cable television system that carried the Stations, the system ceased operation and was decommissioned in 2006.<sup>9</sup>

Pine is a newly formed cable television venture of Pine Telephone, Halfway’s incumbent local exchange carrier. It was created for the express purpose of addressing the loss of television

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<sup>4</sup> Exhibit 2, Declaration of Patrick Lattin, Pine Telephone (“Lattin Declaration”).

<sup>5</sup> Dick Cockle, *Isolated Oregon Town Unshielded from Snow*, *Oregonian* (1988), available at <http://news.google.com/newspapers?nid=1291&dat=19850205&id=ljpUAAAIBAJ&sjid=fo0DAAAIBAJ&pg=2549,1033583>.

<sup>6</sup> Exhibit 2, Lattin Declaration.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* Halfway also receives non-commercial programming from KTVR-TV, La Grande, Oregon (PBS) via television translator station K10NF.

<sup>9</sup> Exhibit 3, Halfway City Council Meeting Minutes, August 10, 2006. *See* Community Unit Identification Number OR0415.

service caused by the decommissioning of the translator stations discussed above.<sup>10</sup> Pine has already obtained a franchise to construct a new cable television system within the City of Halfway and surrounding areas.<sup>11</sup> Pine intends to receive service from the Stations at a receive point located in Boise, and to then transport those signals to its head-end location in Halfway using Pine Telephone's existing wireline facilities. The company anticipates that the system, when fully deployed, will provide service to approximately 100 to 150 households.<sup>12</sup> In order for this venture to succeed, Pine knows that it must carry stations that its viewers regard as local stations, *i.e.*, the Boise stations.

Unfortunately, Pine has had substantial difficulty securing the necessary retransmission consent agreements from Boise stations. The extremely small size of Pine's cable system gives it little leverage to negotiate its way around a station's reluctance to be carried in an adjacent market. Moreover, even if stations were willing to be carried, often they are contractually precluded from entering into carriage agreements with cable television systems located in neighboring markets. Accordingly, the purpose of this petition is to add Halfway to the Boise DMA to reflect market reality and to permit Pine to carry the Stations (whether by must carry or retransmission consent) as local stations on its cable television system.

## **II. LEGAL STANDARD**

The must-carry provisions of the 1992 Cable Act are intended to sustain the local service provided by television broadcasting, including local news, public affairs, and emergency

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<sup>10</sup> Exhibit 2, Lattin Declaration.

<sup>11</sup> Exhibit 4, Pine Telephone T.V. Cable Television Franchise dated August 8, 2013.

<sup>12</sup> Exhibit 2, Lattin Declaration.



broadcasts.<sup>13</sup> Congress directed the Commission “to ensure that television stations be carried in the areas which they serve and which form their economic market.”<sup>14</sup> A station’s Designated Market Area (“DMA”), as defined by Nielsen Media Research, initially establishes the area in which it is “local” for purposes of broadcast signal carriage.<sup>15</sup> Recognizing that a presumptive DMA may be less than a perfect reflection of a station’s local market, Congress authorized the Commission to modify a station’s DMA, and thus the area in which it is entitled to cable carriage, to include or exclude particular communities.

Specifically, the 1992 Cable Act provides that the Commission may include additional communities within a broadcast station’s local television market if the modification would “better effectuate” the underlying objectives of the Commission’s mandatory cable carriage rules.<sup>16</sup> In particular, Section 614(h) directs the Commission to consider the following four factors when evaluating market modification requests:

- (I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;
- (II) whether the television station provided coverage or other local service to such community;
- (III) whether any other television stations that are eligible to be carried by a cable system in such a community in fulfillment of the requirement of this section provided news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

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<sup>13</sup> See Senate Committee on Commerce, Science and Transportation, Cable Television Consumer Protection and Competition Act of 1992, S. Rep. No. 102-92, 102d Cong., 2<sup>nd</sup> Sess. 42 (1991).

<sup>14</sup> See House Committee on Emergency and Commerce, Cable Television Consumer Protection and Competition Act of 1992, H.R. Rep. No. 102-62, 102 Cong., 2<sup>nd</sup> Sess. 97 (1992).

<sup>15</sup> See *id.*

<sup>16</sup> 47 U.S.C. § 534(h)(1)(C)(i).



- (IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.<sup>17</sup>

The Commission subsequently adopted a standardized evidence approach for market modifications, requiring market modification petitions to include the following:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market;
- (2) Grade B contour maps delineating the station's technical service area and showing the location of the cable system headends and communities in relation to the service areas;<sup>18</sup>
- (3) Available data on shopping and labor patterns in the local market;
- (4) Television station programming information derived from station logs or the local edition of the television guide;
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings; and
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.

As shown below, Pine's request is supported by the evidence described above and therefore satisfies the four statutory market modification criteria and would serve the public interest.

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<sup>17</sup> 47 U.S.C. § 534(h)(1)(C)(ii).

<sup>18</sup> Prior to completion of the digital television transition, the Commission used Grade B contour maps to predict the service contours of analog television stations. The service contour of a digital television station is predicted using noise-limited contours. 47 C.F.R. § 73.622(e).

### **III. ADDITION OF HALFWAY TO THE BOISE DMA WOULD SATISFY EACH OF THE FOUR STATUTORY MARKET MODIFICATION CRITERIA**

#### **A. THE STATIONS HAVE A LONG HISTORY OF VIEWERSHIP IN HALFWAY**

Section 614(h) of the Cable Act requires the Commission to consider historic carriage of stations in the subject community when evaluating whether that community should be added to or deleted from a television market.<sup>19</sup> These carriage patterns provide “insight into the market involved” and help differentiate among communities in the same general area.

As indicated above, Halfway has received commercial television coverage from Boise (via television translator stations) for more than 50 years. To the best of Pine’s knowledge, Halfway has never received television stations from anywhere else. Put simply, the Boise stations have a long history of viewership in Halfway because there are no other commercial stations to view. This is reflected in the following chart of translator stations that have served or are serving Halfway:<sup>20</sup>

| Call Sign | Facility ID# | Community of License     | Signal Carried | Network | Service Commencement (Approx.) | Service Discontinuance (Approx.) |
|-----------|--------------|--------------------------|----------------|---------|--------------------------------|----------------------------------|
| K11PD     | 28238        | Brownlee Power Plant, ID | KBOI-TV        | CBS     | 2/1/1981                       | 9/15/2013                        |
| K09OP     | 28237        | Brownlee, ID             | KNIN-TV        | FOX     | 2/1/1981                       | 9/15/2013                        |
| K13QL     | 28241        | Brownlee Power, ID       | KTVB           | NBC     | 2/1/1981                       | Still Active                     |
| K10NF-D   | 50566        | Halfway, OR              | KTVR           | PBS     | 4/1/1990                       | Still Active                     |
| K04ET     | 28240        | Oxbow Power Plant, ID    | KBOI-TV        | CBS     | 2/1/1981                       | 9/15/2013                        |
| K06ER     | 28239        | Oxbow, OR                | KTVB           | NBC     | 2/1/1981                       | 9/15/2013                        |
| K02JS     | 28236        | Oxbow Dam, ID            | KIVI-TV        | ABC     | 2/1/1981                       | 9/15/2013                        |

<sup>19</sup> 47 U.S.C. § 534(h)(1)(C)(ii)(I).

<sup>20</sup> Halfway has been served by television translator stations since the mid to late-1950s. Exhibit 2, Lattin Declaration. The FCC’s Consolidated Database System (CDBS) does not have records for the television translator stations that served Halfway prior to 1981.

In addition, Boise stations were carried on the cable television system that previously served Halfway.<sup>21</sup> This system, which was originally owned by Falcon Cable and then acquired by Charter Communications, ceased operation on November 30, 2006.<sup>22</sup> No other company has provided cable television service in Halfway since that time.<sup>23</sup>

## **B. THE STATIONS PROVIDE LOCAL SERVICE TO HALFWAY**

When evaluating a station's local service under the secondary statutory factor, the Bureau considers "whether the television station provides coverage or other local service to [the] community."<sup>24</sup> The Bureau also considers whether the station broadcasts local programming that has a "distance nexus" to the community, as well as evidence of shopping and labor patterns indicating a strong economic connection between the community where carriage is sought and the community in which the station is licensed.<sup>25</sup> This standard is more than satisfied in the present case.

### **1. Halfway is Extremely Close to the Stations' Noise-Limited Contours**

As indicated above, Halfway is located just 17 road miles from the boundary of the Portland and Boise DMAs. The community thus sits in close proximity to the noise-limited service contour of each of the stations. Based on its review of the Stations' noise-limited contour

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<sup>21</sup> See Exhibit 6, Falcon Cable advertisement in the *Hells Canyon Journal* dated November 19, 1997, listing carriage of the following local broadcast channels on the Halfway cable television system: KBOI-TV (formerly KBCI), Boise, ID (CBS); KIVI-TV, Boise, ID (ABC); and KTVB, Boise, ID (NBC).

<sup>22</sup> Exhibit 3.

<sup>23</sup> Exhibit 2, Lattin Declaration.

<sup>24</sup> *Western Pacific Broadcast*, Memorandum Opinion and Order, 28 FCC Rcd 10804, 10817 (MB 2013).

<sup>25</sup> *Media General of Fairfax County*, 15 FCC Rcd 149, ¶ 17 (Cab. Serv. Bur. 2000).



maps on file with the Commission, Pine estimates that Halfway<sup>26</sup> is between 7 and 18 miles distant from these contours as follows:<sup>27</sup>

| Call Sign | Facility ID# | Community of License | Network | Transmitter Location    | Distance (miles) from Halfway to Noise-Limited Contour (Approx) |
|-----------|--------------|----------------------|---------|-------------------------|---|
| KBOI-TV   | 49760        | Boise, ID            | CBS     | 43-45-21 N; 116-05-54 W | 18.41   |
| KIVI-TV   | 59255        | Nampa, ID            | ABC     | 43-45-21 N; 116-05-54 W | 15.67   |
| KNIN-TV   | 59363        | Caldwell, ID         | FOX     | 43-45-18 N; 116-05-52 W | 15.82   |
| KTVB      | 34858        | Boise, ID            | NBC     | 43-45-16 N; 116-05-56 W | 7.28  |
| KTRV-TV   | 28230        | Nampa, ID            | Me-TV   | 43-45-18 N; 116-05-52 W | 13.19   |

## 2. The Stations are Geographically Close to Halfway

The Bureau also considers the geographic distance between the community and the station as a means of determining whether a station is local.<sup>28</sup> As indicated below, Halfway is approximately 92.5 miles from each of the Stations' licensed transmitter locations:

| Call Sign | Facility ID# | Community of License | Network | Transmitter Location    | Distance (miles) from XMTR to Halfway (Approx) |
|-----------|--------------|----------------------|---------|-------------------------|--|
| KBOI-TV   | 49760        | Boise, ID            | CBS     | 43-45-21 N; 116-05-54 W | 92.4   |
| KIVI-TV   | 59255        | Nampa, ID            | ABC     | 43-45-21 N; 116-05-54 W | 92.4   |
| KNIN-TV   | 59363        | Caldwell, ID         | FOX     | 43-45-18 N; 116-05-52 W | 92.5   |
| KTVB      | 34858        | Boise, ID            | NBC     | 43-45-16 N; 116-05-56 W | 92.5   |
| KTRV-TV   | 28230        | Nampa, ID            | Me-TV   | 43-45-18 N; 116-05-52 W | 92.5   |

<sup>26</sup> The community reference point used for Halfway, Oregon (44-52-41 N; 117-06-35 W) was obtained from the Geographic Names Information System ("GNIS") operated by the U. S. Geological Service. <http://geonames.usgs.gov/apex/f?p=136:1:5988549913515>.

<sup>27</sup> Distance calculations based on noise-limited digital television contours on-file with the Commission. <http://www.fcc.gov/encyclopedia/tv-query-broadcast-station-search>. These contours are illustrated in Exhibit 1.

<sup>28</sup> 1992 *Must Carry Implementation Order*, Report and Order, 8 FCC Rcd 2965, 2977 (1993).



Pine is also geographically close to the communities in which each of the Stations is licensed:

| Call Sign | Facility ID# | Community of License | Network | Community Reference Point <sup>29</sup> | Distance (miles) to Reference Point (Approx) |
|-----------|--------------|----------------------|---------|---|--|
| KBOI-TV   | 49760        | Boise, ID            | CBS     | 43-37-07 N; 116-11-58 W                 | 98.0   |
| KIVI-TV   | 59255        | Nampa, ID            | ABC     | 43-32-27 N; 116-33-48 W                 | 96.3   |
| KNIN-TV   | 59363        | Caldwell, ID         | FOX     | 43-39-47 N; 116-41-14 W                 | 86.5   |
| KTVB      | 34858        | Boise, ID            | NBC     | 43-37-07 N; 116-11-58 W                 | 98.0   |
| KTRV-TV   | 28230        | Nampa, ID            | Me-TV   | 43-32-27 N; 116-33-48 W                 | 96.3   |

These distances, which are within 15 miles of the distances at which the Commission has previously added communities to a station's television market, merely reflect the reality that Halfway is a very small rural community located in a television "no man's land" – it does not receive full power, off-air television service from *anywhere*.<sup>30</sup> Indeed, the presumptively "local" Portland stations are approximately 274.5 miles from Halfway.<sup>31</sup>

### 3. The Stations Provide Extensive Local Service to Halfway

As indicated, the only commercial television service that has ever existed in Pine has consisted of translator stations retransmitting stations from the Boise DMA, and the Stations' programming specifically targets the interests and needs of Halfway. Examples of such programming include:

**Local News.** News programming from the Stations includes coverage of international and national politics, as well as information impacting the regional economy. Agriculture and

<sup>29</sup> The distance calculations in this table use the community reference point for Boise, Idaho (43-37-07 N; 116-11-58 W) set forth in 47 C.F.R. § 76.53, and the reference points for Nampa, Idaho (43-32-27 N; 116-33-48 W) and Caldwell, Idaho (43-39-47 N; 116-41-14 W) obtained from GNIS. See Supra note 26.

<sup>30</sup> *Channel 33 Inc.*, 11 FCC Red 3579, ¶ 8 (Cab. Serv. Bur. 1996) (modifying a station's market to include communities located 81 miles from the station's community of license).

<sup>31</sup> Based on the community reference point for Portland (45-31-06 N; 122-40-35 W) set forth in 47 C.F.R. § 76.53.

ranching are prevalent throughout the area, and news about prices, crop forecasts and futures are of interest in Halfway. The Stations also provide coverage of local news events that directly involve Halfway. For example, the Boise stations recently carried extensive coverage of a new story involving a group of back country skiers trapped in an avalanche in the Wallowa Mountains approximately 10 plus miles north of Halfway.<sup>32</sup>

**Local Weather.** Halfway is located northwest of the Boise metropolitan area. Weather systems affecting Boise typically approach from the west and affect Halfway before reaching Boise. As a result, the Stations' weather coverage provides Halfway's residents with nightly, up-to-date information concerning adverse weather conditions that affect their community.<sup>33</sup> This coverage includes winter storm watches and warnings, approaching thunderstorms, and forecasts useful to travelers and the agricultural/ranching sector.

**Local Sports.** In addition to providing coverage of international sporting events (such as the Olympics) and national sporting events (such as NFL Football and Major League Baseball games), the Stations provide Halfway with coverage of local college sports teams, including those of Boise State University. Many residents near Halfway either attended or have children, friends or relatives who attended Boise State, making its football and basketball games very popular in the community.

#### **4. Halfway is Economically Integrated with Boise**

The strong economic integration of Halfway with the Boise market also militates in favor of Pine's request. Boise is the closest major metropolitan area to Halfway and is easily accessed via state highways and Interstate 84. Boise advertisers market their businesses in Halfway on a

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<sup>32</sup> See Exhibit 6.

<sup>33</sup> *Id.*

regular basis, demonstrating that they view Halfway as being part of the Boise market.<sup>34</sup>

Halfway's local newspaper, the Hells Canyon Journal, reports having over 30 accounts with Boise-based advertisers but none from Portland.<sup>35</sup> These advertisers include car dealers, real estate brokers, insurance companies, health care facilities, retail outlets, food vendors, cattle breeders and buyers, well drillers, auctioneers, nurseries and others.<sup>36</sup> Operators of Halfway's local restaurants and outfitting businesses regularly travel to the Boise area to pick up supplies.<sup>37</sup> Indeed, the Costco stores closest to Halfway are located in Nampa and Boise (93.5 and 100.9 miles away, respectively).<sup>38</sup>

Likewise, Halfway's labor pool is closely aligned and integrated with the Boise market. Idaho Power Company, the largest single employer in Halfway and surrounding areas, is located in Boise. Its three-dam hydroelectric Hells Canyon Complex headquartered at Oxbow, Oregon employs about 70 people year-around.<sup>39</sup> The power company is also the largest payer of property taxes in the Halfway school district.<sup>40</sup> Moreover, Idaho Power Company's employees frequently travel between Halfway and Boise for business purposes, which in turn gives local workers and their families opportunities to conduct personal business in Boise.<sup>41</sup>

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<sup>34</sup> Exhibit 7, Declaration of Steve Backstrom, *Hells Canyon Journal* ("Backstrom Declaration").

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Exhibit 8, Declaration of Terrie Simons, City of Halfway, Oregon ("Simons Declaration").

<sup>38</sup> <http://www.costco.com/WarehouseLocatorView?langId=-1&storeId=10301&catalogId=10701>

<sup>39</sup> Exhibit 7, Backstrom Declaration.

<sup>40</sup> Exhibit 8, Simons Declaration.

<sup>41</sup> Exhibit 7, Backstrom Declaration.



Halfway also relies on services from the Boise market. For example, the appointment scheduler for the Pine Eagle Clinic, a local medical facility serving Halfway, estimates that between 80 and 85 percent of the clinic's referrals are to health care providers and specialists based in Boise or affiliated with the two largest health care facilities in Boise.<sup>42</sup> Similarly, the closest Level II Trauma Center to Halfway is located at the Saint Alphonsus Regional Medical Center in Boise.<sup>43</sup> Finally, Boise offers a full selection of retail shopping, entertainment venues, educational and training facilities, transportation hubs, and other modern amenities that are not available anywhere closer to Halfway.<sup>44</sup>

**C. THERE IS NO COVERAGE OF LOCAL EVENTS BY OTHER TELEVISION STATIONS**

Under the third statutory factor, the Bureau considers whether other stations eligible for carriage provide specialized local coverage. This standard is readily satisfied by the fact that the Stations provide the only commercial television coverage the residents of Halfway have ever received. Residents of Halfway have literally grown up watching news, weather and sports coverage from the Stations. Put simply, there are no other stations that can provide coverage of local events in Halfway because no other commercial stations serve or have ever served Halfway.

**D. THERE IS NO PUBLISHED DATA REGARDING CABLE AND NONCABLE VIEWING PATTERNS IN HALFWAY**

The fourth statutory factor requires the Bureau to consider "evidence of viewing patterns in cable and noncable households with the areas served by the cable system or systems in such

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<sup>42</sup> Exhibit 9, Declaration of Sue Frerichs, Pine Eagle Clinic.

<sup>43</sup> <http://www.facs.org/trauma/verified.html>

<sup>44</sup> Exhibit 8, Simons Declaration.



community.”<sup>45</sup> According to A.C. Nielsen, there is no rating data available for the Stations in Halfway for any period. Moreover, to the best of Pine’s knowledge, there is no published data showing the cable and noncable viewing patterns in Halfway. This is not surprising -- as indicated above, Halfway has been without cable television service since 2006 and all but one channel of commercial terrestrial broadcast service since 2013. Given that the Stations are the only commercial stations that have ever served Halfway, notice can be taken that the Stations have been heavily viewed in Halfway.

#### **IV. CONCLUSION**

Based upon the foregoing, the Commission should grant Pine’s request to modify the television market for television stations KBOI-TV, KIVI-TV, KNIN-TV, KTVB and KTRV-TV as requested herein.

Respectfully submitted,

**PINE TELEPHONE T.V.**

By: \_\_\_\_\_

John D. Hemphill, General Counsel  
Patrick Lattin, General Manager

Brian W. Higgins  
Robert D. Primosch  
Wilkinson Barker Knauer, LLP  
2300 N Street, NW, Suite 700  
Washington, DC 20037  
(202)783-4141  
[bhiggins@wbklaw.com](mailto:bhiggins@wbklaw.com)  
[rprimosch@wbklaw.com](mailto:rprimosch@wbklaw.com)

Its Attorneys

March 14, 2014

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<sup>45</sup> 47 U.S.C. § 534(h)(1)(C).

## CERTIFICATE OF SERVICE

I, Annetta Washington, a Secretary with the law firm of Wilkinson Barker Knauer, LLP, hereby certify that on the fourteenth day of March 14, 2014, I served the foregoing Petition for Special Relief by depositing a copy thereof with the United States Postal Service, first class postage prepaid, addressed to:

William T. Lake\*  
Chief, Media Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Sheila Farwell, Mayor  
Halfway City Hall  
155 E Record Street  
Halfway, OR 97834

Mr. Don Pratt  
General Manager  
KBOI-TV (CBS)  
140 N. 16<sup>th</sup> Street  
Boise, ID 83702

Mr. John Tamerlano  
General Manager  
KATU (ABC)  
2153 N.E. Sandy Blvd.  
Portland, OR 97232

Ms. Marie McGlynn  
Vice President and General Manager  
KIVI-TV (ABC) and KNIN-TV (FOX)  
1866 E. Chisholm Drive  
Nampa, ID 83687

Mr. Tim Perry  
President & General Manager  
KOIN (CBS)  
222 SW Columbia St.  
Portland, OR 97201

Mr. Doug Armstrong  
President and General Manager  
KTVB (NBC)  
5407 West Fairview Avenue  
Boise, ID 83706

Mr. Ray Heacox  
President & General Manager  
KGW (NBC)  
1501 SW Jefferson Street  
Portland, OR 97201

Mr. Ken Hunter  
Vice President and Station Manager  
KTRV-TV (ME-TV)  
Three 6<sup>th</sup> Street North  
Nampa, ID 83687

Mr. Patrick McCreary  
KPTV (FOX)  
14975 NW Greenbrier Parkway  
Beaverton, OR 97006-5731

Idaho Power Company  
P.O. Box 70  
Boise, ID 83707

  
Annetta Washington

\*/ via hand delivery